

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 5/13/2020

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DANNY D. LEE,

Plaintiff,

-against-

ANDREW SAUL, COMMISSIONER OF
SOCAL SECURITY ADMINISTRATION,

Defendant.

20-CV-2956 (PGG) (SN)

ORDER OF SERVICE

SARAH NETBURN, United States Magistrate Judge:

Plaintiff brings this *pro se* action under the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, and the Family and Medical Leave Act of 1993. By order dated April 21, 2020, the Court granted Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis* (IFP).

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)). Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summons and complaint be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summons and complaint until the Court reviewed the complaint and ordered that a summons be issued. The Court therefore extends the time to serve until 90 days after the date the summons is issued. If the complaint is not served within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); *see also Murray v. Pataki*,

378 F. App'x 50, 52 (2d Cir. 2010) (“As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals’ failure to effect service automatically constitutes ‘good cause’ for an extension of time within the meaning of Rule 4(m).”).

To allow Plaintiff to effect service on Defendant Andrew Saul, Acting Commissioner of the Social Security Administration, through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (USM-285 form) for this defendant. The Clerk of Court is further instructed to: (1) mark the box on the USM-285 form labeled “Check for service on U.S.A.”; and (2) issue a summons and deliver to the Marshals Service a copy of this order and all other paperwork necessary for the Marshals Service to effect service on the United States.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION


The Clerk of Court is directed to mail a copy of this order to Plaintiff, together with an information package.

The Clerk of Court is further instructed to: (1) complete the USM-285 form with the address for Defendant Saul; (2) mark the box on the USM-285 form labeled “Check for service on U.S.A.”; and (3) and deliver all documents necessary to effect service to the U.S. Marshals Service.

In light of the current global health crisis, parties proceeding *pro se* are encouraged to submit all filings by email to Temporary_Pro_Se_Filing@nysd.uscourts.gov. *Pro se* parties also are encouraged to consent to receive all court documents electronically. A [consent to electronic service form](#) is available on the Court’s website. *Pro se* parties who are unable to use email may

submit documents by regular mail or in person at the drop box located at the U.S. Courthouses in Manhattan ([500 Pearl Street](#)) and White Plains ([300 Quarropas Street](#)). For more information, including instructions on this new email service for *pro se* parties, please visit the Court's website at nysd.uscourts.gov.

SO ORDERED.



SARAH NETBURN
United States Magistrate Judge

Dated: May 13, 2020
New York, New York

DEFENDANT AND SERVICE ADDRESS

1. Andrew Saul, Acting Commissioner, Social Security Administration
6402 Security Blvd., 2nd Floor RMB
Baltimore, Md. 21235